

Message Text

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ORIGIN OPIC-06

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SUBJECT: REVERE ARBITRATION

1. OPIC ISSUED THE FOLLOWING PRESS RELEASE TODAY (AUGUST 25, 1978) ON THE AWARD RENDERED IN THE REVERE ARBITRATION.

QUOTE ARBITRATOR'S CUT REVERE CLAIM AGAINST OPIC
WASHINGTON, D. C. AUGUST 25, 1978, BY A TWO TO ONE MAJORITY,
A PANEL OF THREE NEUTRAL ARBITRATORS HAS AWARDED REVERE
COPPER AND BRASS, INC. \$1,131,144 ON A \$90 MILLION CLAIM
AGAINST THE OVERSEAS PRIVATE INVESTMENT CORPORATION UNDER
REVERE'S EXPROPRIATION INSURANCE COVERAGE OF REVERE'S IN-
VESTMENT IN BAUXITE MINING AND ALUMINA OPERATIONS IN
JAMAICA. OPIC IS THE U.S. GOVERNMENT-OWNED CORPORATION
ESTABLISHED BY CONGRESS TO ENCOURAGE DEVELOPMENTAL INVEST-
MENT BY AMERICAN BUSINESS IN LESS-DEVELOPED COUNTRIES.

REVERE HAD CLAIMED THAT CERTAIN ACTIONS BY THE GOVERN-
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MENT OF JAMAICA, PRINCIPALLY THE IMPOSITION OF A NEW LEVY
ON THE PRODUCTION OF BAUXITE IN JUNE 1974 HAD THE EFFECT OF
AN INDIRECT EXPROPRIATION.

OPIC DENIED THAT THE ACTIONS COMPLAINED OF BY REVERE
AMOUNTED TO EXPROPRIATORY ACTION UNDER THE TERMS OF THE IN-

SURANCE POLICY. AMONG THE REASONS CITED BY OPIC FOR REJECTING REVERE'S INSURANCE CLAIM WAS THAT THE COMPANY'S JAMAICAN OPERATIONS HAD EXPERIENCED SERIOUS TECHNICAL AND COMMERCIAL PROBLEMS BOTH PRIOR TO AND FOLLOWING THE ENACTMENT OF THE BAUXITE LEVY IN 1974, RESULTING IN SUCH HEAVY FINANCIAL LOSSES THAT THE JAMAICAN PLANT CEASED OPERATIONS IN AUGUST 1975 FOR REASONS INDEPENDENT OF THE BAUXITE LEVY OR ANY OTHER JAMAICAN GOVERNMENT ACTION. OPIC ALSO DISPUTED REVERE'S CLAIM THAT THE BAUXITE LEVY WAS CONFISCATORY IN EITHER DESIGN OR EFFECT.

ALL THREE ARBITRATORS AGREED WITH OPIC THAT THE LEVY WAS NOT CONFISCATORY. THE MAJORITY FOUND, HOWEVER, THAT JAMAICAN ACTIONS CONSTITUTED A REPUDIATION OF THE 1967 AGREEMENT UNDER WHICH THE REVERE INVESTMENT WAS MADE AND THAT THE UNCERTAINTY OF REVERE'S STATUS AMOUNTED TO INTERFERENCE WITH CONTROL OF THE ENTERPRISE EVEN THOUGH REVERE'S ACTUAL POSSESSION AND OPERATIONS WERE NOT INTERFERED WITH. THE DISSENTING ARBITRATOR REJECTED THE NOTION THAT SUCH ABSTRACT INTERFERENCE WITH CONTROL AMOUNTED TO EXPROPRIATORY ACTION UNDER THE TERMS OF THE INSURANCE AND AGREED WITH OPIC'S TOTAL REJECTION OF THE CLAIM.

THE PANEL ACCEPTED NEARLY ALL OF THE POINTS URGED BY OPIC AS TO LEVEL OF COMPENSATION IN REDUCING THE AWARD
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FROM THE TOTAL AMOUNT CLAIMED BY REVERE. END QUOTE.

2. THE ARBITRATION AWARD ITSELF IS BEING TRANSMITTED AS FAST AS POSSIBLE. CHRISTOPHER

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